

§ 36C-6-605. Failure of disposition of property of a trust by lapse or otherwise.

(a) If a beneficiary under a revocable trust predeceases the execution of the trust or the settlor or is treated as having predeceased the settlor, and if the beneficiary is a grandparent of or a descendant of a grandparent of the settlor, then the issue of the predeceased beneficiary who survive the settlor shall take in place of the deceased beneficiary. The deceased beneficiary's issue shall take the deceased beneficiary's share in the same manner that the issue would take as heirs of the deceased beneficiary under the intestacy provisions in effect at the time of the settlor's death. The provisions of this section apply whether the disposition of property is to an individual, to a class, or is a part of the residue of the trust. In the case of the disposition to a class, the issue shall take whatever share the deceased beneficiary would have taken had the deceased beneficiary survived the settlor. In the event the deceased class member leaves no issue, the deceased beneficiary's share shall devolve upon the members of the class who survived the settlor and the issue of any deceased members taking by substitution.

(b) If the provisions of subsection (a) of this section do not apply to the disposition of property that fails, the property shall pass to the beneficiaries in proportion to their share of the residue of the trust. If the disposition is part of the residue of the trust, it shall augment the shares of the other residuary beneficiaries, including the shares of any substitute takers under subsection (a) of this section. If there are no residuary beneficiaries, then the property shall pass by intestacy. (2007-106, s. 25.)